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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2011-168

12 **MARSHA A. RITCHEY**

13 **2319 Grimsby Drive**
14 **Antioch, CA 94509**

15 **2357 Redwood Drive**
16 **Antioch, CA 94509**

17 **Registered Nurse License No. RN 525623**

Respondent.

A C C U S A T I O N

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about August 21, 1996, the Board of Registered Nursing issued Registered
24 Nurse License Number RN 525623 to Marsha A. Ritchey (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on August 31, 2010, unless renewed.
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1 "In addition to other acts constituting unprofessional conduct within the meaning of this
2 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
3 chapter to do any of the following:

4 ". . . .

5 "(b) Use any controlled substance . . . or alcoholic beverages, to an extent or in a manner
6 dangerous or injurious to himself or herself, any other person, or the public

7 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
8 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
9 or the possession of, or falsification of a record pertaining to, the substances described in
10 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
11 thereof.

12 9. California Code of Regulations, title 16, section 1444, states in pertinent part:

13 "A conviction or act shall be considered to be substantially related to the qualifications,
14 functions or duties of a registered nurse if to a substantial degree it evidences the present or
15 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
16 safety, or welfare. . . ."

17 10. Section 490 of the Code provides, in pertinent part, that a board may suspend or
18 revoke a license on the ground that the licensee has been convicted of a crime substantially
19 related to the qualifications, functions, or duties of the business or profession for which the
20 license was issued.

21 11. Section 493 of the Code states:

22 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
23 the department pursuant to law to deny an application for a license or to suspend or revoke a
24 license or otherwise take disciplinary action against a person who holds a license, upon the
25 ground that the applicant or the licensee has been convicted of a crime substantially related to the
26 qualifications, functions, and duties of the licensee in question, the record of conviction of the
27 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
28 and the board may inquire into the circumstances surrounding the commission of the crime in

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question.

3"

4 **COST RECOVERY**

5 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Criminal Conviction)

11 13. Respondent is subject to disciplinary action under sections 2761(f), 2762(c), and 490
12 of the Code in that she was convicted of a criminal offense. The circumstances are as follows.

13 14. On or about April 27, 2010, in a criminal proceeding entitled *The People of the State*
14 *of California v. Marsha Ann Ritchey*, Case No. 1-145946-0, in the Superior Court for the County
15 of Contra Costa, the Respondent pleaded no contest to and was convicted of violating California
16 Vehicle Code 23152(b) (driving a vehicle with greater than 0.08% blood alcohol level).

17 Respondent was sentenced to serve 10 days in jail, to serve 3 years of court probation, and to pay
18 fines totaling \$1728.00. The circumstances were that on or about July 24, 2009, in Antioch,
19 California, Respondent drove a vehicle with a blood alcohol level of 0.26%. At the time of her
20 arrest, Respondent's level of intoxication was so severe that, apart from visually appearing passed
21 out, she provided her VISA card to the arresting officer instead of her license and registration.

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Dangerous Use of Alcohol)

24 15. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b) of the
25 Code in that Respondent used alcohol in a manner dangerous to others, to the public, and to
26 herself. The circumstances are described above in the First Cause For Discipline.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 525623, issued to Marsha A. Ritchey;

2. Ordering Marsha A. Ritchey to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 8/31/10

Stacie Bern
for LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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